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EXAMINER

ESTREMSKY, GARY WAYNE

ART UNIT PAPER NUMBER

3676

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/789,380

Applicant(s)

ARGO, KEVIN

Examiner

Gary Estremsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/29/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION*****Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims.

While a handle (140) has been shown, the disclosure does not illustrate the claimed "thumbturn" or "pushbutton" of claim 3. The disclosure does not illustrate "the cam axis is generally parallel to the plane (of the plane of the housing as shown in Fig 4 for example) as set forth in claim 5. The drawings do not illustrate the arrangement including a "door" of claim 13. Similarly, the steps of claims 14-22 are not shown, particularly noting that the "door" and "door jamb" central to the claimed method are not illustrated. Therefore, the indicated must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional

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replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

1. Claim 14 is objected to because of the following informalities:

"biased in the locked position" should be replaced with -biased toward the locked position-.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 3-5, 16, 17, and 24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a

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way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

As regards claims 3, 16, and 24, although the term "pushbutton" is used in the written description, the original disclosure does not provide adequate written description and/or illustration to enable one of ordinary skill in the art to make and use an embodiment having a pushbutton since the necessary interconnecting/operable structure is not disclosed.

As regards claims 4 and 16, although a part '148' has been described as a "lock assembly" in the written description, the original disclosure does not provide adequate written description and/or illustration to enable one of ordinary skill in the art to make and use an embodiment having a pushbutton since the necessary interconnecting/operable structure is not disclosed.

As regards claims 5 and 17, 'as best understood' the axis of rotation of the illustrated cam (120) is perpendicular to the plane of the housing as shown in Fig 4. The disclosure does not provide adequate written description and illustration to enable one of ordinary skill in the art to make and use the claimed invention.

5. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Assuming Applicant intends to claim the illustrated arrangement (axis as noted above), the claim is rejected as indefinite since it does not clearly describe that arrangement. It's noted that the disclosed/claimed "latch" pivots generally

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perpendicularly to the mounting plane of the housing (ie the plane of the door or closure) by virtue of its axis of rotation being parallel to the plane. It might be assumed that the discrepancy stems from (mis)use of the terms of geometry but the examiner is obligated to examine the limitations.

Additionally as regards claims 1-7, it is not clear if the claimed invention includes a biasing member or not. It appears that the claim does not include the structure required for performing the recited function of "biased". It is suggested that limitation of claim 8 be added to claim 1 or that "biased toward,..." be replaced with -capable of being biased toward,...-.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-3 and 5-29 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 2,469,430 to Bowlzer.

Bowlzer '430 teaches Applicant's claim limitations including : a "housing" - including 14,16, a "latch" - 29, "biased" - by spring 20, a "cam" - either of parts 30 or 33 read on limitation.

As regards claim 2, part 32 reads on "actuator shaft".

As regards claim 3, Bowlzer '430 teaches "handle" - 34.

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As regards claim 5, 'as best understood', Applicant intends to define the claimed invention consistent with the disclosed invention wherein the cam rotates on an axis perpendicular to the mounting plane of the housing. In that respect, part 33 rotates on an axis of the handle, perpendicular to the mounting plane of 14. However, part 30 rotates around part 18, an axis parallel to the mounting plane of part 14.

As regards claims 6, either of parts 30,33 has a generally sloping surface, but part 30 defines maximum thickness at its crest.

As regards claim 12, Bowlzer '430 teaches a "pin" 18.

#### ***Allowable Subject Matter***

8. Due to the nature of rejections made under 35 USC 112, no allowable subject matter can be indicated at this time.

#### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 3,563,068 to Dushane.


U.S. Pat. No. 5,551,188 to Davlantes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 703 308-0494. The examiner can normally be reached on M-Thur 7:30-6.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on 703 308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Gary Estremsky  
Primary Examiner  
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